

REMARKS

I. Amendments to the Specification

In accordance with the Examiner's recommendation, the written disclosure has been amended as shown above to correct all ambiguous language.

II. Claim Objections

The claims have been amended to address the objections as to informalities.

III. Claim Rejections Under 35 USC § 112

a. Claim 7 has been amended to more clearly point out and distinctly claim that all the crimping troughs on the second crimping block vary in size, and not just the crimping troughs of claim 6 (*i.e.* the "crimping troughs in a surface opposite the surface adapted to mate with said first crimping block").

b. Claim 8 has been amended to more clearly point out and distinctly claim that the number of crimping troughs on the surface that mates with the first crimping block is equal to the number of troughs on the opposite side of the second crimping block. The phrase "whereby double the number of cables can be crimped" has been deleted.

c. Claim 10 has been amended to more clearly point out and distinctly claim a handle extending from one end of the crimping device “for holding said second crimping block in position.”

d. In Claim 15, the phrase “either end” has been deleted. Claim 15 has been amended to more clearly point out and distinctly claim “said crimping device can be gripped by a hand or a clamping tool on either end of said second crimping block.”

III. Claim Rejection Under 35 USC § 102

Examiner rejects claims 1-3, 5, 9 and 14 under 35 U.S.C. § 102 as being anticipated by United States Patent No. 4,60,379 to Jaskolski (hereinafter “’379 patent” or “Jaskolski”).

A claim is anticipated only if “each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicant

respectfully traverses the § 102(b) rejections based upon the '379 patent because Jaskolski does not expressly or inherently teach each and every element of Applicant's claimed invention.

Applicant has amended claim 1. As amended, claim 1 is not anticipated by the '379 patent because Jaskolski does not disclose "a first crimping block having a plurality of crimping ribs for engaging a connector fitted on the end of a cable, said plurality of crimping ribs integral to said first crimping block..."

Examiner asserts that the "set screws 30 in Fig. 1" are the same as the crimping "ribs for engaging a connector fitted on the end of a cable." *See* Office Action at ¶10(a)(i). Applicant submits that the set screws 30 cannot be understood as "ribs" either in terms of structure or function. Structurally, the screws are a distinct movable element in the pin machining fixture of the '379 patent, while the ribs are—by definition—integral to the body of the first crimping block. In addition, the ribs have a clear functional limitation, "for engaging a connector fitted on the end of a cable." Although it is recognized that claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, it is nonetheless to be noted that the functional limitation as clearly set forth in claim 1 distinguishes the ribs from the set screws of Jaskolski.

Regardless, claim 1 has been amended to more clearly define the structure of the ribs by adding the limitation that said ribs are integral to said first crimping

block. In the '379 patent, it is disclosed that the "[s]et screws 30 are threaded through top 18." See '379 patent at Col. 2, lines 36-37. Therefore, claim 1 is not anticipated because Jaskolski does not disclose ribs integral to the block body.

Since independent claim 1 is not anticipated, dependent claims 2-3, 5, 9 and 14 are likewise not anticipated.

IV. Claim Rejection Under 35 USC § 103

A. Law on Obviousness

Section 2142 of the Manual of Patent Examining Procedure (MPEP) provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching, suggestion or incentive supporting the combination. See MPEP § 2143.01. "The test for an implicit

showing is what the combined teachings, knowledge of one of ordinary skill in the art, *and the nature of the problem to be solved as a whole* would have suggested to those of ordinary skill in the art.” See *id.*, citing *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) (emphasis added); *In re Lee*, 277 F.3d 1338, 1342-44, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002) (discussing the importance of relying on objective evidence and making specific factual findings with respect to the motivation to combine references). Moreover, “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).” (emphasis in original).

B. Claims 1 and 4 are Non-obvious

Examiner rejects claims 1 and 4 as being obvious over United States Patent No. 4,322,123 to Newell (hereinafter “Newell”) in view of United States Patent No. 1,451,727 to Harburg (hereinafter “Harburg”).

Claims 1 and 4 are non-obvious over Newell in view of Harburg because there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine their teachings as suggested by Examiner.

Examiner asserts that Newell teaches “the same invention as applicant,” except for “an actuating mechanism comprising a bolt.” *See* Office Action at ¶12. Examiner also acknowledges that Newell does not disclose “a *plurality* of crimping ribs and a *plurality* of crimping troughs.” *See id.* (emphasis in original).

Preliminarily, it is worth noting that, contrary to the Examiner’s assertion, Newell does not teach a crimping device having either a “first crimping block” or a “second crimping block.” The crimping device of Newell, resembling an office stapler, has “arm portions 40 and 42 which are *integrally joined* at 44.” *See* Newell at Col. 3, line 18 (emphasis added). More specifically, in Newell, item 48 in Fig. 2 is a “gripping surface.” *See* Newell at Col. 3, line 18. Item 48 is not a “first crimping block,” as asserted by Examiner. Similarly, item 52 in Newell is not a “second crimping block,” but rather another “outwardly directed gripping surface.” *See* Newell at Col. 3, lines 24-25. As such, Newell teaches only a crimping tool having two arms, with a singular “crimping tooth 46” on one arm and a complementary “recessed area 50” on the other arm. *See* Newell at Col. 3, lines 20-22.

Although it is recognized that Harburg teaches a device comprising two blocks, it is important to note that Harburg is directed to a “pipe holding device,” that “has for its object to provide a device of this character comprising a registering and engaging bars detachably connected together, the engaging faces of said bars

being provided with spaced transversely disposed *semi-circular grooves for the reception of various sizes of pipes...*” See Harburg at Col. 1, lines 11-22 (emphasis added). The bolts in Harburg function to hold the clamping blocks together. The Harburg bolts do not function to actuate the crimping process. Moreover, the “semi-circular grooves” of Harburg function to hold pipes and have no crimping ability. Whereas in claim 1, it is recited that the bolts are ‘tighten[ed] down’ “until a respective crimping rib engages a respective crimping trough crushing and securely crimping said connector on an end of said cable.”

Applicant respectfully submits that there would have been no motivation whatsoever for one of ordinary skill in the art to combine the Newell crimping device, which comprise a pair of arms with a singular crimping tooth and recessed area, with the Harburg *pipe holding* device, which has a plurality of “semi-circular grooves,” to achieve the invention recited in claims 1 and 4. Specifically, there is no teaching to: first, modify the pair of *integrally joined* arms 40 and 42 of Newell into separate and distinct blocks actuated by an actuating bolt mechanism; second, modify the singular crimping tooth 46 of Newell into a plurality of ribs and troughs.

The MPEP requires that the Examiner provide an objective source to support a contention that a feature is known or obvious to one skilled in the art. An unsupported statement that a feature or combination “would have been obvious to

one skilled in the art” is improper if made without support. *In re Garrett*, 33 BNA PTCJ 43 (November 13, 1986).

A statement that modifications of the prior art to meet the claimed invention would have been “well within the ordinary skill of the art at the time the claimed invention was made because references relied upon teach that all aspects of the claimed invention were individually known in the art” is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993)... [See also] *Al-site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999) (The level of skill in the art cannot be relied upon to provide suggestion to combine references).

Claim 1 is therefore non-obvious over Newell in view of Harburg. Likewise, dependent claim 4 is non-obvious as well.

C. Claims 6-8 are Non-obvious

Examiner rejects claims 6-8 as being obvious over the ‘379 to Jaskolski in view of United States Patent No. 3,172,454 to Wilson (hereinafter “Wilson”). Claim 6 is dependent from claim 1. In turn, claim 7 is dependent from claim 6. And claim 8 is dependent from claim 7.

Examiner asserts that Jaskowski discloses the same invention as claimed applicant, except for “a second crimping block having a plurality of crimping troughs on a surface opposite a surface adapted to mate with a first crimping block, whereby the crimping troughs vary in size to accommodate different size cables...” See Office Action at ¶13. Examiner asserts that Wilson teaches a second block

“with troughs on two opposite faces of the block, the troughs being of various sizes, so as to double the number of troughs...” *See id.*

As noted above, it is axiomatic that the prior art reference (or references when combined) must teach or suggest all the claim limitations. Applicant respectfully disagrees that Jaskowski teaches the same invention, except as noted by Examiner.

Claim 6 is directed to a crimping device (according to claim 1) in which the second crimping block has a plurality of crimping troughs on a surface opposite the surface adapted to mate with said first crimping block. As it is dependent from claim 1, it is to be noted that claim 6 has a plurality of crimping ribs integral to the first crimping block.

By contrast, Jaskowski is directed to a “pin machining fixture” that “allows several work piece pins to be clamped in positions.” *See* ‘379 patent at Col. 1, lines 10-15. As noted in the section on anticipation, the removable set screws 30 in the pin machining fixture that are used for clamping are not the same as the integral crimping “ribs” of the present invention. Nor does Wilson teach a pinch-off tool having “ribs.” Instead, Wilson teaches a pinch-off tool comprising a pair of interconnected “jaws 12 and 14,” each jaw having a plurality of “concave surfaces 42, 44, and 46.” *See* Wilson at Col. 3, lines 19 and 40. Therefore, even if the Jawolski and Wilson references were combined, the combination would not

teach or suggest all the claim limitations, in particular, the integral “ribs” of claim 1.

More importantly, even if it is contended that the set screws 30 in Jaskolski can be understood to “suggest” ribs, Applicant submits there is no suggestion or motivation to combine the pin machining fixture of Jaskolski and the “pinch-off and re-rounding tool” of Wilson. One of skill in the art would not have combined Jaskolski’s pin machining fixture, which is a clamping device, with Wilson’s pinch-off tool, which is not capable of crimping due to the inherent absence of ribs, to produce the crimping device as recited in claims 6-8. The mere fact that Jaskolski and Wilson could be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination, which in this case they do not.

Because claims 1 and 6 are non-obvious over Jaskolski in view of Wilson, it follows that claims 7 and 8 are non-obvious as well.

D. Claims 10 and 15 are Non-obvious

Examiner rejects claims 10 and 15 as being obvious over the ‘379 to Jaskolski in view of United States Patent No. 4,445,358 to Gooding (hereinafter “Gooding”). Claim 10 is dependent from claim 1. Claim 15 is dependent from claim 2, which in turn is dependent from claim 1.

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i. Claim 10

Regarding claim 10, Examiner asserts that “Jaskolski discloses the same invention as the applicant, except for a handle extending from one end of the crimping device for holding the crimping device in position while a connector is being crimped on the end of a cable.” *See* Office Action at ¶14. Examiner asserts “Gooding teaches a tool for affixing terminals onto cables, the tool comprising two blocks, whereby one of the blocks comprises a handle (10 in Fig. 2).” *See id.*

Claim 10, as amended, is directed to a crimping device (according to claim 1) including a removable handle extending from one end of the crimping device for holding the second crimping block in position while a connector is being crimped on the end of a cable. As it is dependent from claim 1, it is to be noted that claim 10 has a plurality of crimping ribs integral to the first crimping block.

Again, Applicant submits that Jaskolski does not disclose the same invention as claimed by Applicant, at least because the removable set screws 30 that are used for clamping in the pin machining fixture are not the same as the integral crimping “ribs” of the present invention.

Applicant also submits that Gooding does not teach a crimping tool having a “removable handle” as recited in *amended* claim 10. In Gooding, the jaws are on the handle 10 itself, such that the handle is not a removable component of the device. As such, the combination of Jaskolski’s pin machining fixture and

Gooding's "portable tool for affixing terminals onto battery cables" would not teach or suggest all the claim limitations of claim 10. Nor, moreover, is there motivation or suggestion to combine the references.

ii. Claim 15

With regard to claim 15, Examiner asserts that Gooding "teaches a tool for affixing terminals onto cables, the tool comprising two blocks, whereby one of the two blocks is longer than the other (10 in Fig. 2) so as to act as a handle." See Office Action at ¶14. As described by Gooding, the "portable tool for affixing terminals onto battery cables" comprises: "handle member 10 and clamping member 20 ... secured together by tiepiece 19." See Gooding at Col. 2, lines 21-25. Applicant submits that the handle member and clamping member of Gooding cannot be construed as two crimping blocks of the kind claimed in the present invention. The mere fact that the handle member is longer than the clamping member does not teach what is claimed by Applicant in amended claim 15: *i.e.* "flat areas on *either end of said second crimping block*; whereby said crimping device can be gripped by a hand or a clamping tool on either end of said second crimping block." (emphasis added).

Further, there is certainly no objective motivation or suggestion to combine Jaskolski with Gooding. Jaskowski is directed to a "pin machining fixture" that "allows several work piece pins to be clamped in positions." See '379 patent at

Col. 1, lines 10-15. Gooding is directed to a “portable tool for affixing terminals onto battery cables,” comprising a “handle member 10 and clamping member 20 ... secured together by tiepiece 19.” *See* Gooding at Col. 2, lines 21-25. The two references do not teach or suggest a crimping device can be gripped by a hand or a clamping tool on either end of said second crimping block.

Therefore, claim 15 is non-obvious over Jaskolski in view of Gooding.

CONCLUSION

The Examiner is respectfully requested to reconsider the objections and rejections of the claims in view of the remarks made herein. It is believed that this application—particularly, claims 1-15—has been placed in condition for allowance, and such action is respectfully requested.

If the Examiner believes that a telephone or other conference would be of value in expediting the prosecution of the present application, enabling an Examiner's amendment or other meaningful discussion of the case, Applicant invites the Examiner to contact Applicant's representative at (310) 777-8399.

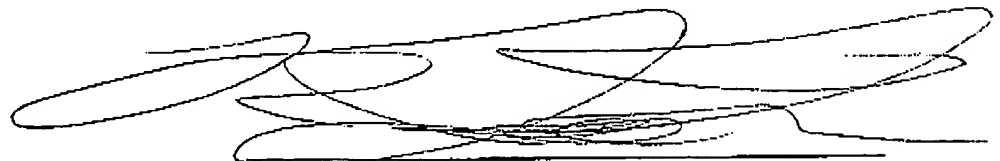
If any additional fees are required as a result of this amendment, or any credit needs to be made for overpayment of fees, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 500703.

Respectfully submitted,

TROJAN LAW OFFICES

By

April 28, 2006



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